IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Misc. Writ Petition No.864 (M/B) of 2003

(1) Kunwar Lal S/o Sundar Lal
(2) Harshvardhan Banjwal S/o H.D. Banjwal
Both R/o Village-Nakot Agastmuni
District-Rudraprayag.

..... Petitioners.

Versus

State of Uttaranchal through
Collector, Rudraprayag and 3 Ors.

..... Respondents.

.....

Hon'ble P.C. Verma, J.
Hon'ble Irshad Hussain, J.

By means of this writ petition, the petitioners have prayed for the following relief:-

> "To issue a writ, order or direction in the nature of mandamus commanding the respondents not to proceed with the construction of the stadium for the reason that the flat area lying in Agastmuni lying in khet No.1492, has been since ages and a per the epics used for religious purposes and the same could not be disturbed."

A perusal of relief itself shows that the petitioners have adopted a short circuit way bypassing the remedy available to them by filing a suit. This recourse appears to have been adopted with ulterior motive to bypass the benefit of provisions of Sec. 80 of Civil Procedure Code, which is available to the State. Therefore, the petitioners have not come up with clean hands. Thus, we are not inclined to entertain the petition. The petition is liable to be dismissed. However, it is open for the petitioners to avail the remedy of suit, if they so choose.

The petition is dismissed accordingly.

09.10.2003 (Irshad Hussain, J.) (P.C. Verma, J.)
P.Singh